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man, which would elevate him above the position of fellow-servant with the workmen.

3. INSTRUCTIONS—*Relevant to evidence—Harmless error.* Instructions must be read and construed in the light of the evidence to which they are addressed, and if, when so considered, it appears that the jury could not have been misled or deceived by them, the judgment should not be reversed, though as abstract propositions they may not accurately state the law.

4. PERSONAL INJURIES—*Declaration—Ignorance of danger—Contributory negligence.* In an action to recover damages for personal injuries the declaration need not allege the plaintiff's ignorance of the danger to which he was exposed. This is in effect an averment that he was not guilty of contributory negligence. Contributory negligence is matter of defence and need not be negated by the plaintiff in his declaration.

COMMONWEALTH v. MYER, Decided at Richmond, January 16, 1896.—*Keith, P.*

1. LICENSE TAX—*Peddlers—Interstate commerce—Discrimination in favor of citizens of the state—Sec. 32, ch. 244, Acts 1889-90 unconstitutional and void.* The State of Virginia has the right to impose a tax on peddlers where it operates uniformly upon all citizens, and does not discriminate in favor of citizens of this State and against citizens of other States, or where the tax imposed is in the exercise of police power and not a regulation of commerce under cover of that power, although incidentally it may have that effect; but where any injurious discrimination is made in favor of the resident against the non-resident, or with respect to the sales of articles manufactured in this State over similar articles manufactured abroad, the law is repugnant to the Constitution of the United States and therefore void. Applying these principles to section 32 of Chapter 244, Public Acts, 1889-90, page 197, the said section is void, because it injuriously discriminates against the products of other States and the rights of other citizens, and is an attempt to fetter commerce among the States, and deprives the citizens of other States of the privileges and immunities possessed by the citizens of this State.

FITCH v. COMMONWEALTH. — Decided at Richmond, February 6, 1896.—*Riely, J.*

1. CRIMINAL PLEADING—*Plea to jurisdiction—Venue—Burden of proof.* A plea in abatement based on the ground that the offence, if committed at all, was committed beyond the jurisdiction of the court is not admissible. That is matter of defence under the general issue of "not guilty." The burden is on the Commonwealth to prove that the offence was committed within the jurisdiction of the trial court.

2. PERJURY—*Indictment—Averment of jurisdiction over case in which perjury committed.* An indictment for perjury which states the substance of the offence, in what court the oath was administered which is charged to have been falsely taken, and avers that the court had authority to administer the same, contains the only averments necessary as to the jurisdiction of the court over the case upon the trial of